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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) SCEI 3.0-116	
	Application Number 10/066,457-Conf. #2191	Filed January 31, 2002	
	First Named Inventor Ken Kutaragi, Shinichi Okamoto, and Kazuo Miura		
	Art Unit 2434	Examiner R. Tolentino	

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant /inventor.
- ☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

☒ attorney or agent of record.

Registration number 38,253

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34. _____

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February 11, 2009
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of 1 forms are submitted.

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: MS AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: February 11, 2009

Signature: (Daryl K. Neff)

In the final office action, all of the pending claims were rejected under 35 U.S.C. § 103 as allegedly obvious over the combination of U.S. Patent No. 6,738,950 to Barnett ("*Barnett*") in view of U.S. Patent No. 6,044,471 to Colvin (claims 43, 44, 47, 48, 51 and 52 ("*Colvin*"), or as allegedly obvious over *Barnett* in view of *Colvin* and further in view of U.S. Patent No. 6,948,168 to Kuprionas (claims 45, 46, 49 and 50) ("*Kuprionas*"). Applicants respectfully traverse the rejections for the reasons set forth below.

All of the independent claims (claims 43, 47, 51 and 52) recite a system or method or computer-readable storage medium that governs how a first information processing system can obtain permission from a second information processing system having a database to execute a program on a recording medium loaded in the first information processing apparatus.

The second information processing apparatus permits the first information processing apparatus to execute the program stored on the recording medium when it receives identification information from the first information processing apparatus that matches information stored in the database such that any of two different conditions is satisfied.

Because permission to execute is premised on any of two different conditions being true, the user of the first information processing system can select the way to obtain permission to execute the program. Thus, claims 43, 47, 51 and 52 recite that the first information processing apparatus must permit the first information processing apparatus to execute a program stored on a recording medium when any one of the conditions is true.

The first condition is that each of first identification information and second information received from the first information processing apparatus matches data stored in the database. As recited in each of the independent claims,

the first identification information identifies at least one of the first information processing apparatus or a user of the first information processing apparatus. As also recited in each of the independent claims, the second identification information identifies a program stored on a recording medium that is coupled to the first information processing apparatus. Thus, permission is granted to execute the program whenever first apparatus identification and program identification match the stored database information; or when user identification and program identification match the stored database information.

The second condition is that the second identification information matches the data stored in a database and a password that is inputted by the user at the first information processing apparatus is valid. Thus, permission is granted to execute the program whenever the program identification and the password match the stored database information.

The passage of *Barnett* (col.1 ll.50-62) cited in the final office action to reject the claims merely refers to the conventional entry of a username and password in response to a prompt when a user requests access to a website. *Barnett* neither teaches nor suggests a system in which a second information processing system permits a first information processing apparatus to execute a program stored on a recording medium whenever either one or both of the two different conditions is true. Clearly, *Barnett* fails to teach permitting a program stored on a recording medium to be executed on condition that first identification information and second information matches data stored in a database, where the first identification information identifies at least one of the first information processing apparatus or a user of the first information processing apparatus, and the second identification information identifies a program stored on the recording medium.

Barnett also fails to teach permitting the program

stored on the recording medium to be executed when second identification information (information identifying a program stored on the recording medium) matches the data stored in a database and a password that is inputted by the user at the first information processing apparatus is valid.

Neither *Colvin* nor *Kuprionas* supplies the elements of the claims which are clearly lacking in *Barnett* with to the invention recited in the independent claims. *Colvin* does not provide the teachings which *Barnett* lacks with respect to the invention recited in the presently pending claims. *Colvin* merely teaches authentication using a single password at a time. (col.3 ll.5-13, 20-27). *Colvin* does not teach using second information, e.g., a second password, for example, to determine whether a user is allowed to execute a program, because the second password is used for continued use of the software for which permission to execute has already been granted (col.4 ll.28-32). Even when a password is updated, only the updated password is used for verification. Thus, there is nothing in *Colvin* to suggest that the verification of a password could be performed with concurrent verification of any other information received from a first information processing apparatus to grant or deny permission to execute a program.

Since *Colvin* grants permission by verifying a single password, *Colvin*, teaches against requiring other identification information to be received from the first information processing and to match stored database information. *Colvin* clearly cannot be combined with *Barnett* to meet the elements of the presently claimed invention.

That *Colvin* teaches use of single password at a time is clear from its description that an administrator 24 may compare the registration information with previously received registration information to determine whether to issue a password. (col.5 ll.6-9). The information is only used to

issue a password. Thus, only a password needs to be verified to authorize a user to execute a program. Even if the registration information is used with a password for verification, the combination of the information and a password is fixed. In contrast, the claimed invention allows a user to select the combination of different kinds of information and/or a password to be used for authentication.

Colvin does not teach having the second information processing apparatus permit the first information processing apparatus to execute a program when only other information, e.g., the claimed first and second identification information, match the data stored in a database.

Kuprionas is merely cited in the final Office Action as allegedly teaching use of a device ID to identify an end user computer to verify software licensed to that device ID. (col.1 ll.35-42, col.1 l.64-col.2 l.3) However, *Kuprionas* fails to teach permitting execution of a program when each of the first and second identification information, as defined specifically in the claims, matches data stored in a database. Again, *Kuprionas* does not make up for the teachings which *Barnett* and the combination of *Barnett* and *Colvin* lack with respect to the pending independent claims. As all other claims depend from one of the independent claims, each is fully distinguished from the cited art for at least the same reasons as set forth above.